

claim to such property with the Fines, Penalties, and Forfeitures Officer within 20 days from the date of the first publication of the notice prescribed in § 162.45.

(b) *Bond for costs.* Except as provided in paragraph (e) of this section, the bond in the penal sum of \$5,000 or 10% of the value of the claimed property, whichever is lower, but not less than \$250, required by section 608, Tariff Act of 1930, as amended, to be filed with a claim for seized property shall be on Customs Form 301, containing the bond conditions set forth in § 113.72 of this chapter.

(c) *Claimant not entitled to possession.* The filing of a claim and the giving of a bond, if required, pursuant to section 608, Tariff Act of 1930, shall not be construed to entitle the claimant to possession of the property. Such action only stops the summary forfeiture proceeding.

(d) *Report to the U.S. attorney.* When the claim and bond, if required, are filed within the 20-day period, the Fines, Penalties, and Forfeitures Officer shall report the case to the U.S. attorney for the institution of condemnation proceedings.

(e) *Waiver of bond.* Upon satisfactory proof of financial inability to post the bond, the Fines, Penalties, and Forfeitures Officer shall waive the bond requirement for any person who claims an interest in the seized property.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 81-1, 45 FR 84994, Dec. 24, 1980; T.D. 84-213, 49 FR 41186, Oct. 19, 1984; T.D. 85-123, 50 FR 29956, July 23, 1985; T.D. 91-52, 56 FR 25364, June 4, 1991; T.D. 99-27, 64 FR 13676, Mar. 22, 1999]

#### § 162.48 Disposition of perishable and other seized property.

(a) *Disposition of perishable property.* Seized property which is perishable or otherwise enumerated in section 612, Tariff Act of 1930, as amended (19 U.S.C. 1612), and is covered by the provisions of section 607, Tariff Act of 1930, as amended (19 U.S.C. 1607), shall be advertised for sale and sold at public auction at the earliest possible date. The Fines, Penalties, and Forfeitures Officer shall proceed to give notice by advertisement of the summary sale for such time as he considers reasonable.

This notice shall be of sale only and not notice of seizure and intent to forfeit. The proceeds of the sale shall be held subject to the claims of parties in interest in the same manner as the seized property would have been subject to such claims.

(b) *Disposition of other seized property.*

(1) If the expense of keeping any vessel, vehicle, aircraft, merchandise or baggage is disproportionate to the value thereof, destruction or other disposition of such property may be ordered by the appropriate Customs officer. Storage expenses are presumed to be disproportionate to the value of the property where the expense has reached or is anticipated to reach 50 percent of the value of the property. The right of a claimant to seized property which has been destroyed or otherwise disposed of shall not be extinguished.

(2) Publication of a notice of the seizure, regardless of the disposition of the property, will be required pursuant to 19 U.S.C. 1607. Claimants to seized property will be permitted to file a petition for remission of the forfeiture pursuant to 19 U.S.C. 1618, and part 171 of this chapter. A claimant receiving full or partial relief from the forfeiture shall be reimbursed the difference between the value of the merchandise at the time of the seizure, pursuant to 19 U.S.C. 1606 and § 162.43 of this part, and any remitted forfeiture amount that the claimant is required to pay.

(3) A claimant to destroyed or otherwise disposed of seized property requesting relief in the form of payment may file a claim and cost bond and seek judicial hearing on the forfeiture pursuant to 19 U.S.C. 1608.

(4) Successful claimants shall be compensated from Customs Forfeiture Fund pursuant to 19 U.S.C. 1613b.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 85-195, 50 FR 50290, Dec. 10, 1985; T.D. 92-69, 57 FR 30640, July 10, 1992; T.D. 99-27, 64 FR 13676, Mar. 22, 1999; T.D. 00-57, 65 FR 53575, Sept. 5, 2000]

#### § 162.49 Forfeiture by court decree.

(a) *Report to the U.S. attorney or the Department of Justice if the penalty was assessed under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).* When

## § 162.50

## 19 CFR Ch. I (4-1-03 Edition)

it is necessary to institute legal proceedings in order to forfeit seized property, or to forfeit the value of property subject to forfeiture, the Fines, Penalties, and Forfeitures Officer or the special agent in charge of the area involved shall furnish a report to the U.S. attorney or the Department of Justice if the penalty was assessed under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), in accordance with the provisions of section 603, Tariff Act of 1930, as amended (19 U.S.C. 1603).

(b) *Bonding of seized property.* When a claimant desires to file a bond for the release of seized property which is the subject of a court proceeding, he shall be referred to the U.S. attorney. The Government is entitled to recover the penal sum of the bond if forfeiture is then decreed.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 85-90, 50 FR 21431, May 24, 1985; T.D. 99-27, 64 FR 13676, Mar. 22, 1999]

### § 162.50 Forfeiture by court decree: Disposition.

(a) *Sale.* Forfeited property decreed by the court for sale or disposition by the Fines, Penalties, and Forfeitures Officer shall be disposed of in the same manner as property summarily forfeited. (See § 162.46.)

(b) *Transfer to other ports for sale.* If the laws of the State in which property is seized and forfeited prohibit the sale of such property, or if the Commissioner of Customs is of the opinion that the sale of forfeited property may be made more advantageously at another port, application may be made to the court to permit disposition in accordance with the provisions of section 611, Tariff Act of 1930 (19 U.S.C. 1611). If the court permits such disposition, the property shall be moved to and sold at such other port as the Commissioner may direct provided it has been cleared for sale.

(c) *Destruction—(1) Proceeds of sale not sufficient.* Property forfeited under a decree of any court may be destroyed if it is provided in the decree of forfeiture that the property shall be delivered to the Secretary of the Treasury or the Commissioner of Customs for disposition in accordance with section 611, Tariff Act of 1930 (19 U.S.C. 1611).

(2) *For protection of the revenue.* Any vessel or vehicle forfeited under a decree of any court for violation of any law respecting the Customs revenue may be destroyed in lieu of sale when such destruction is authorized by the Commissioner of Customs to protect the revenue if it is provided in the decree of forfeiture that the property shall be delivered to the Secretary of the Treasury or Commissioner of Customs for disposition under the provisions of 19 U.S.C. 1705.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 99-27, 64 FR 13676, Mar. 22, 1999]

### § 162.51 Disposition of proceeds of sale of property seized and forfeited other than under 19 U.S.C. 1592.

(a) *Order of payment of expenses incurred—(1) When application for remission and restoration is filed and approved.* Section 613 of the Tariff Act of 1930, as amended (19 U.S.C. 1613), and § 171.41 of this chapter authorize the filing of an application for remission of the forfeiture and restoration of the proceeds from the sale of seized and forfeited property. If the application is filed within 3 months after the date of sale and is approved, the proceeds of the sale, or any part thereof, shall be restored to the applicant after deducting the following charges in the order named:

- (i) Internal revenue taxes.
- (ii) Marshal's fees and court costs.
- (iii) Expenses of advertising and sale.
- (iv) Expenses of cartage, storage, and labor. When the proceeds are insufficient to pay these expenses fully, they shall be paid pro rata.

(v) Duties.

(vi) Any sum due to satisfy a lien for freight, charges, or contributions in general average, provided notice of the lien has been given in the manner prescribed by law.

(2) *When no application for remission and restoration is filed or the application is denied.* If no application for remission and restoration is filed within 3 months after the date of sale of seized and forfeited property, or if the application is denied, the proceeds of the sale shall be disbursed in the following order:

- (i) Internal revenue taxes.